

Decision 03-02-043 February 27, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Daniel A. Stock,
Complainant,

vs.

Southern California Edison Company,
Defendant.

Case 02-07-038
(Filed July 11, 2002)

OPINION DISMISSING COMPLAINT

1. Summary

The Commission dismisses this complaint for failure to state a claim upon which relief can be granted under Pub. Util. Code § 1702. Complainant Daniel A. Stock (Stock) has failed to show that the method used by defendant Southern California Edison Company (Edison) to determine his over-baseline residential usage in months in which both winter and summer baseline allowances are used in the same bill is in violation of any provision of law or of any order or rule of the Commission.

2. Procedural Background

At the prehearing conference in this matter, the parties agreed that Edison would file a motion to dismiss for failure to state a claim. Stock filed a response to the motion. With permission of the Administrative Law Judge (ALJ), Edison

filed a reply. Because there are no facts in dispute, this decision is issued on the basis of the pleadings and motion papers, without an evidentiary hearing.

3. Statement of Facts

Stock alleges that Edison is in violation of our orders and rules because its calculations of over-baseline usage improperly overcharged him in three months in which both winter and summer baseline allowances are used in the same bill: bills dated June 12, 2001, October 11, 2001, and June 12, 2002. Stock asserts that the same number of kilowatt hours of electricity usage in his bills for those months could and should be allocated in a way that costs him less than Edison billed. Edison's daily proration of Stock's electricity usage and allocation of the prorated days to the two different seasons results, in Stock's view, in over-allocation of usage to higher tiers.¹

In his complaint, Stock included a comparison of the calculation of his bill as rendered and his bill using the calculation method he thinks is more appropriate. This comparison, for Stock's bill for the period of May 10, 2002 to June 11, 2002, is set out in the Appendix, with slight alterations for clarity and ease of reference. Edison does not dispute the accuracy of Stock's calculation using his method of allocation. Stock, in turn, concedes the accuracy of Edison's calculations. The dispute is therefore only about whether Edison's method of calculation violates Commission rules.

4. Discussion

Stock claims that Edison's proration of daily usage and allocation of the prorated usage to baseline and over-baseline quantities in each season in a

¹ We adopted a five-tier design for Edison's residential rates in Decision (D.) 01-05-064 (May 15, 2001).

month when seasonal baselines change inflates his bill. Instead, he urges that Edison should aggregate all baseline quantities and all over-baseline usage in each tier for both seasons for that month. In the example in the Appendix, there are charges for usage in the 201%-300% tier in the bill rendered by Edison, but not in Stock's proposal.

In D.84-12-068, 16 CPUC 2d 721 (Dec. 28, 1984), we authorized Edison both to use daily baseline quantities and to prorate bills in months where seasonal baselines changed. (16 CPUC 2d at 884-85.) Stock does not dispute that Edison used daily baseline quantities in calculating Stock's bills. Nor does he dispute that, in making the daily proration of usage, Edison followed its approved Rule 9A.4.b. Stock instead points to Edison's tariff, Preliminary Statements, Part H (Baseline Service), paragraph 7, as requiring the aggregation he urges.

Paragraph 7 provides:

Billing. The Energy Charge shall be billed at the rates designated as applicable to Baseline Service up to the total of the applicable baseline quantities as determined in accordance with Part H, Paragraphs 2, 3, and 4 above. Usage in excess of the total applicable baseline quantities shall be billed at the rates designated as applicable to Nonbaseline Service.

Stock asserts that the references to the "total" of the applicable baseline quantities necessarily implies aggregation of baseline quantities across seasons. Read in the context of the references to the other paragraphs, however, "total" in Paragraph 7 refers to the aggregation of the baseline allocations described in Paragraph 3 and the medical baseline allocations described in Paragraph 4.²

² This can be seen from Paragraph 3, which begins:

Footnote continued on next page

There is no conflict between these statements and the calculation method Edison used in Stock's bills.

Since there are no facts in dispute, and Stock has not identified a law or rule violated by Edison's bill calculations, his complaint fails.

Comments on Draft Decision

The draft decision in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Stock filed timely comments. He noted that the amount on deposit with the Commission had increased. Ordering Paragraph 2 reflects this change. In all other respects, the decision is unchanged.

Assignment of Proceeding

Michael Peevey is the Assigned Commissioner and Anne E. Simon is the assigned ALJ in this proceeding.

Findings of Fact

1. In months in which baseline seasons change, Edison calculates residential bills using daily baseline quantities.
2. In months in which baseline seasons change, Edison prorates monthly residential usage to obtain figures for daily usage.
3. In months in which baseline seasons change, Edison allocates the prorated residential daily usage to baseline and over-baseline usage based on the number of days of the month in each season.

Baseline Allocations. The applicable baseline quantity of electricity to be billed under rates designated as applicable to Baseline Service shall be the total of any Medical Baseline Allocation permitted under Paragraph 4 below, plus the applicable daily baseline quantities for the customer's Baseline Region . . . shown below . . .

4. Edison correctly calculated Stock's over-baseline usage for the bills dated June 12, 2001, October 11, 2001, and June 12, 2002.

Conclusions of Law

1. Edison's calculations of Stock's bills dated June 12, 2001, October 11, 2001, and June 12, 2002 are consistent with Edison's tariffs and do not violate any provision of law or any order or rule of the Commission.

2. Stock's complaint should be dismissed for failure to state a claim on which relief can be granted.

3. The funds deposited by Stock with the Commission at the commencement of this proceeding should be distributed to Edison.

4. This order should be effective today to eliminate any uncertainty about Edison's baseline bill calculations or the validity of Edison's bills for the periods at issue.

O R D E R

IT IS ORDERED that:

1. This complaint is dismissed.
2. The sum of \$11.04 deposited with the Commission by the complainant shall be distributed to the defendant.
3. Case 02-07-038 is closed.

This order is effective today.

Dated February 27, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD

LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIXComparison Calculations of Stock's Bill for Period 5/10/02—6/11/02Bill rendered

Billing Period – 05/10/02 to 06/02/02 (23 days) – Winter Season

Billing Period – 06/02/02 to 06/11/02 (9 days) – Summer Season

Basic Charge	32 days x \$0.02500	\$0.80
Energy Charge		
Baseline-Winter	373 kwh x \$0.13009	48.52
101%-130% of Baseline	112 kwh x \$0.15157	16.98
131%-200% of Baseline	135 kwh x \$0.19704	26.60
Baseline-Summer	90 kwh x \$0.13009	11.71
101%-130% of Baseline	27 kwh x \$0.15157	4.09
131%-200% of Baseline	63 kwh x \$0.19704	12.41
<i>201%-300% of Baseline</i>	<i>62 kwh x \$0.23645</i>	<i>14.66</i>
Subtotal		\$135.77
Legislated Rate Reduction		(11.29)
Current Billing Detail Subtotal		\$124.98
Torrance UUT	\$124.48 x 6.50000%	8.09
State Tax	862 kwh x \$0.00020	0.17
Current amount must be paid by 07/01/02		\$132.74

Stock's Proposal

Winter Baseline	23 winter days x 16.2 kwh	= 373 kwh
Summer Baseline	9 summer days x 10.0 kwh	= <u>90 kwh</u>
Total Baseline		463 kwh

Basic Charge	32 days x \$0.02500	\$0.80
Energy Charge		
Baseline	463 kwh x \$0.13009	60.23
101%-130% of Baseline	139 kwh x \$0.15157	21.07
131%-200% of Baseline	260 kwh x \$0.19704	51.23
Subtotal		\$133.33
Legislated Rate Reduction		(11.29)
Current Billing Detail Subtotal		\$122.04
Torrance UUT	\$122.04 x 6.50000%	7.93
State Tax	862 kwh x \$0.00020	0.17
Current amount must be paid by 07/01/02		\$130.14

(END OF APPENDIX)